

Ordinance No.: 18-21
Zoning Text Amendment No.: 16-10
Concerning: Transferable
Development Rights
Overlay Zone – Optional
Method Standards
Draft No. & Date: 1-07/19/16
Introduced: August 2, 2016
Public Hearing: September 20, 2016
Adopted: November 29, 2016
Effective: November 29, 2016

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Council President Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- modify the Transferable Development Rights (TDR) Overlay zone to clarify when the requirements under optional method MPDU development must be followed;
- correct the minimum common open space requirements for optional method development using Transferable Development Rights; and
- generally amend the requirements for development under the TDR Overlay zone

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 4.9. “Overlay Zones”
Section 4.9.16. “Transferable Development Rights (TDR) Overlay Zone”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 16-10 was introduced on August 2, 2016 to amend the optional method requirements for the Transferable Development Rights (TDR) Overlay zone by reducing the required common open space area. The 2014 Zoning Ordinance Rewrite redefined common open space to exclude private green space without appropriately adjusting the amount of space required for common open space. The Council corrected this problem, for the most part, by approving ZTA 15-09 on December 1, 2015. That ZTA did not make the same adjustment to the TDR Overlay zone that it did to other zones. This amendment would correct that oversight.

In its report to the Council, the Montgomery County Planning Board recommended approval of the text amendment. Planning Staff recommended approval.

The Council conducted a public hearing on September 20, 2016. A representative of Brookfield Residential spoke in favor of the ZTA as introduced.

The Council referred the matter to the Planning, Housing, and Economic Development Committee.

On November 21, 2016, the Planning, Housing, and Economic Development Committee recommended approval of ZTA 16-10 with an amendment to make the ZTA effective when approved by the Council.

The District Council reviewed Zoning Text Amendment No. 16-10 on November 29, 2016. The Council agreed with the recommendation of the Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 16-10 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-4.9 is amended as follows:

DIVISION 4.9. Overlay Zones

* * *

Section 4.9.16. Transferable Development Rights (TDR) Overlay Zone

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B. Optional Method

1. In General

The TDR Overlay optional method of development permits an increase in the maximum residential density, if the development satisfies the requirements for optional method development using Transferable Development Rights under Section 4.9.16.B.

* * *

d. Development with Moderately Priced Dwelling Units

* * *

- iii. In a Rural Residential or Residential zone with a TDR density designation of less than three units per acre, development using TDRs and providing MPDUs above 12.5% must follow the requirements under optional method MPDU Development. Any other optional method development in a Rural Residential or Residential zone must satisfy the requirements of Section 4.9.16.B.

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2. Rural Residential and Residential Zones

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b. Calculation of TDRs Required in the Rural Residential or Residential Zones

Development using TDRs must include at least 2/3 of the maximum number of development rights unless the Planning Board finds that a lower density is more appropriate for environmental or compatibility reasons.

- i. In the Rural Residential and Residential zones, the following building types require a minimum percent of total units indicated, and where applicable a maximum allowed number of units (noted in parentheses). In addition, the minimum amount of common open space required is indicated:


TDR Density Designation	Size of Development	Building Type (minimum required as a percentage of total units)				Common Open Space (min)
		Detached House	Duplex	Townhouse	Apartment	
1	Any size	100%	0%	0%	Not permitted	0%
2	Any size	100%	0%	0%	Not permitted	0%
3-5	< 800 units	30%	0%	0%	Not permitted	[35] <u>20</u> %
	800+ units	30%	0%	0%	0% (20% max)	[35] <u>20</u> %
6-10	< 200 units	15%	0%	0%	Not permitted	[40] <u>20</u> %
	200+ units	15%	0%	0%	0% (35% max)	[40] <u>20</u> %
11-15	< 200 units	0%	0%	0%	0%	[50] <u>25</u> %
	200+ units	0%	0%	0%	35% (60% max)	[50] <u>25</u> %

TDR Density Designation	Size of Development	Building Type (minimum required as a percentage of total units)				Common Open Space (min)
		Detached House	Duplex	Townhouse	Apartment	
16-28	200 units	0%	0%	0%	0%	[50]25%
	200+ units	0%	0%	0%	25% (60% max)	[50]25%
> 28	Any size	0%	0%	0%	25%	[50]25%

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Sec. 2. Effective date. This ordinance becomes effective on the date of Council adoption.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council